E-FILED
Rachel Dombrowski, Clerk
Appellate Court of Maryland
5/31/2024 3:14 PM

6. I observed George Nagel and his son, Richard Nagel, using instrumentation to measure and locate what the survey party agreed is a roadbed.

7. The roadbed the survey party identified continued southeast heading towards the intersection of what is now Dogstreet road and Mount Briar road, through an area of the "Rockingham subdivision" that is identified as an "existing nature trail" at note three (3) on that plat No. 5429 of "Rockingham subdivision."

8. As the survey party walked along the "existing nature trail," Adam Greivell, Esq. pointed to what the survey party agreed was a survey stone (monument) called for along a "road" that is described in the public records and predecessor deeds of N/F Austin Flook.

9. As the survey party followed the roadbed from Young's driveway towards "Rockingham subdivision," and towards the intersection of what is known today as Dogstreet road and Mount Briar road, I observed larger older hardwood trees on the edges of the roadbed, the soil I was walking on was packed tightly, and sloping, so that it would cause rainwater to drain away from the said roadbed.

10. After a period of study of the data collected during the March 24, 2021 inspection of property, discussions with the survey party regarding the factual evidence observed, and discussions with expert land surveyor George Nagel, it was my understanding that George Nagel would be providing testimony that the roadbed the survey party located agreed very well with the Ariel photography, maps and other public records the survey party had relied on to locate the roadbed.

11. I understand that expert land surveyor George Nagel will be able to provide testimony that the roadbed identified by the survey party, beginning at Young's driveway, continuing through the "existing nature trail" in "Rockingham subdivision," accurately follows the path, being designated as "1906," (or an extension thereof) on the "Road Map of Washington County Showing Road

Districts & Road Numbers" which indicates it was drawn by E. R. Darby, J. B. Ferguson & Co. Engineers, Hagerstown, Maryland and that it was Revised in 1937, (the "1936 Road Map"), which hangs in the land records room in the Washington County Circuit Court, and road "1906" burdens land Young claims.

12. I have also discussed with George Nagel the road depicted on the 1936 Road Map that intersects road "1906" (or an extension thereof) at a 90 degree angle near the southern end of what Young claims as his Parcel 3 which branches off to the south and intersect a road designated as "1904," (the "local road"), and that same local road is depicted on the Atlas of Keedysville, Maryland that is located at (E1330) of the Record Extract in this appeal, and on Map 4 of the Town of Keedysville, Maryland's 1974 comprehensive plan, whereupon that local connector road burdens the entirety of what Young claims as his Parcel 2 and some of Parcel 1.

13. I have also discussed with George Nagel the road depicted on the 1936 Road Map that intersects road "1906" (or an extension thereof) at a 90 degree angle near the southern end of what Young claims as his Parcel 3 which branches off to the north along what I understand to be the Cost/Keedy divisional line, thence turning west and running parallel to the railroad tracks, ("Harris Lane"), and that Harris Lane would burden at least a portion of what Young claims as his Parcel 1 & 3.

14. On March 24, 2021 I walked in a northernly direction with Jeffrey Young along the western edge of what Jeffrey Young claims as his Parcel 1, and I explained to Young that I understood us to be walking along the Cost/Keedy divisional line.

15. When myself and Jeffrey Young arrived within approximately 5 feet of the northwest corner of what Jeffrey Young claims as his Parcel 1, I showed Jeffrey Young a "planted stone" survey monument, and explained to Jeffrey Young that I had discovered the "planted stone" with assistance of my expert surveyor George Nagel, who I witnessed using his instrumentation to take precision measurements of that said "planted stone" survey monument.

16. After discussing the location of the "planted stone" survey marker with George Nagel I understood that "planted stone" survey monument to mark the beginning of Parcel 1 as described on what has been commonly referred to as the Reeder-Wickline 1966 deed in case C-21-CV-20-371, and explained that to Jeffrey Young.

17. After an early June 2022 pretrial hearing in case C-21-CV-20-371, but prior to trial in case C-21-CV-20-371, I instructed expert surveyor George Nagel that the trial court prohibited any evidence of public roads, and I did not ask George Nagel questions at trial related to evidence of public roads.

18. After an early June 2022 pretrial hearing in case C-21-CV-20-371, but prior to trial in case C-21-CV-20-371 I decided not to Subpoena witnesses, or enter the evidence I had discovered that related to the public roads I claim burden the land Jeffrey Young claims as Parcel 2 & 3 in observance of the court's orders.

I, Justin Holder, hereby declare or affirm under the penalties of perjury and personal knowledge that the facts 1 through 18 above and matters set forth in the forgoing **"AFFIDAVIT OF JUSTIN HOLDER"** are true and correct.

Justin K. Holder[1] - 12/01/2023

[1] *"signer's digital signature [affixed] to the document." Rule 20-107 - Mdec Signatures, Md. R. Elec. Fil'g & Case Mgmt. 20-107*

TOWN OF KEEDYSVILLE, MARYLAND

"Where Northern Thrift and Personality Blend with Southern Charm and Hospitality"

P.O. Box 359
19 South Main Street
Keedysville, MD 21756
301-432-5795
townhall@keedysvillemd.com
www.keedysvillemd.com

Ken Lord, Mayor
Brandon Sweeney, Assistant Mayor
Judy Kerns, Council
Matt Hull, Council
Sarah Baker, Council

Certification of Records

November 28, 2023

Request Number 2023-07

Request – Minutes for 27 Town Meetings from 1958-1975: 11/18/58, 05/18/59, 09/02/59, 09/14/59, 10/12/59, 11/23/59, 01/09/61, 04/10/61, 04/24/61, 05/22/61, 06/13/61, 07/03/61, 08/29/61, 12/29/61, 02/09/62, 03/14/62, 06/19/62, 08/21/62, 12/20/62, 05/09/63, 06/03/63, 07/11/63, 08/05/63, 10/02/63, 05/01/65, 05/06/65, and 02/05/75

The attached 20 pages are true and accurate copies of records maintained by the Town of Keedysville.

Lisa Riner

Lisa Riner
Town Administrator

73

11-18-58

A Special meeting of the Mayor and Council was held at the home of Charles Taylor with the following present: Mayor Taylor,Asst. Mayor Hines and councilmen Smith , Rowe and Miller.

A letter received from R.F. Kline,Inc., was read concerning the repairing and sealing of our town alleys. The price of $ 1,400.00 was quoted for this work. Upon a motion by Councilman Miller, Second by Hines , it was passed to have this work done at the convenience of the contractor.

A motion by Councilman Hines , Second by Rowe to give Councilman Miller authority to negotiate deeds for the road from the Mill to the New Highway and from the park to the new road. Passed. In conjunction with this , another motion by Councilman Hines , seconded by Miller that the town agree to give Dudley Fry a Maximum of $ 100.00 for land needed to build the road between the Mill and the New Highway. Passed, with Councilman Rowe voting no.

The letter from Butcher & Sherrard was Re-read offering to arrange material and advertise our water Bonds for a fee of $ 1,000.00 and stating that if they should be the successful bidder , the $ 1,000.00 would not be paid.

Motion duly made and carried that Butcher & Sherrard be employed by the town of Keedysville , Maryland on the basis outlined in their letter dated Nov. 5 , 1958, and that the Mayor be authorized to sign the agreement on behalf of the town. The original is attached here to and becomes a part of these minutes.

The motion was regularly made by Councilmen Miller , seconded by Rowe, with the 3rd vote being cast by Mayor Taylor. This made it unanimous , since there was no dissenting vote.

The meeting was then adjourned at 9:30 P.M.

Arthur E. Long Jr.
Clerk to the Board

95

May 18, 1959

A special meeting of the Mayor and Council and Water Board was held at Russel Geeting's Redwood Lodge May 18, 1959, with the following present: Mayor Schwagel, Councilmen Kline, Rowe and Miller, Russel Geeting, Ralph Taylor, Bob Gordon, Douglas Highbarger, Roy Hammond, Bob Lakin and Charles Wagaman.

The Town Attorney, Charles Wagaman, presented the Resolution creating a Board of Water Commissioners for Keedysville. Upon reading, re-reading and complete discussion of all sections, a motion was made by Councilman Kline, seconded by Miller, to adopt said Resolution as drawn up. Passed unanimously by those present. A short summary is as follows: Said Resolution shall provide for the manner of appointment and removal of the members thereof and term of office thereon; define the powers, duties, rights, obligations andsalary of said Board and provide that water rents or charges are liens on the property in which said water is used. A copy of this resolution shall be posted at the Post Office and in the daily newspaper for each of four weeks.

The Water Board voted unanimously to adopt the following:

The undersigned Board of Water Commissioners, hereby declare, that they will not accept any pay for any services rendered by them, during this term of office.

The question of how to pick the water board members for their respective terms of 1, 2 and 3 years was discussed. The Mayor and Council decided on a motion by Councilman Kline, seconded by Rowe to allow the water board to handle this and if no decision could be reached by them to refer it back to the Mayor and Council Passed unanimously.

There being no other business, the meeting was adjourned.

A short meeting was then held at the Town Library.

There was quite a lot of discussion on the patching and sealing of our alleys and the manner in which it was done. With this in mind, there was a motion by Councilman Kline, seconded by Rowe to submit any future jobs for bids. Passed unanimously.

The Mayor suggested that we are in need of stationery, after which it was decided to purchase what was needed.

Mayor Schwagel will contact the State Roads Commission concerning the paving of our main street by the fall of 1960. It is hoped that our State Revenue Funds will cover the cost of our patching by that time,

Upon a motion by Councilman Kline, seconded by Rowe, it was passed to have the Town Clerk obtain the election ballots from the Judges, seal and deposit in the bank for 30 days, after which they will be destroyed.

There being no other business, the meeting was adjourned.

John W Long Jr.
Clerk to the Board

105

Sept. 2, 1959

The regular meeting ot the Mayor and Council was held at Taylor Park Sept. 2, 1959, with all members present.

After quite some discussion there was a motion by Asst. Mayor Hines, 2nd by Councilman Miller that, inasmuch as the land on which the road from the by-pass to the park, owned by Mr. Stiles, is covered by a mortgage to the Federal Land Bank, the following procedure is recommended:

First, have Stiles sign deed releasing said land to Town of Keedysville.

Second, Upon authorization by Stiles, have Mr. Wagaman attempt to obtain a deed from Federal Land Bank. Motion carried.

Since there has been continuous complaint concerning parking along the alley at the ball park, it was decided that, in the future, whoever uses the ball park will be responsible for keeping the alley clear of cars.

The treasurer reported the following fund balance:

General Fund - $ 3,725.40 and State Revenue Fund - $ 5,968.06

The patching and sealing of our streets and alleys was thourghally discussed and it is the concensus of opinion that, at this time, ditches will not be settled enough until spring 1960. This was agreed upon by a motion by Councilman Rowe, 2nd by Kline.

The agreement between the B & O. R.R. and the town of Keedysville for the right of way for a water line was received and ok'd by our town attorney, Mr. Wagaman.

Complaints on broken curbs and anything disturbed during installation of the water system should be reporter to Mayor Schmagel. These in town will be cleared through E. D. Plummer & Sons for repairs.

Two stop signs should be erected on the through alley from the new highway to the ball diamond. One back of Valentine's store and one at the west park entrance. Asst. Mayor Hines will acquire the signs and councilman Rowe will install them.

The streetslights at the Reform Church and the School House which were previously ok'd for installation, will be checked into.

A meeting will be called in the near future with the water board and Bob Lakin, to discuss the proper way to handle the rough spots in our street, until Spring, when the final patching is completed.

Referance was made to June 29, 1959 minutes and it was decide to disregard the idea of installing a sign in the park, at the present time.

A bill was received from Charles Wagaman for services rendered, such as acquisition of Spring, preparing deeds, Amending town charter, etc. There upon a motion by Councilman Rowe, 2nd by Miller to pay Charles Wagaman $ 300.00 for legal fees to date. Passed.

Also a motion by Asst. Mayor Hines, 2nd by Councilman Miller that Keedysville Corp. pay $ 1,200.00 to Keedysville Board of Water Commissioners for refund for land purchased from Olive Remsburg. Said land covered by deed, on file. Passed.

Robert line appeared before the council and asked to have an alley opened in back of his lots, bordering Harris Street. The Mayor will call attorney Wagaman to see what the proper procedure would be.

The folloeing addition will be made to the minutes of May 7, 1959:

Russel Geeting reported that Mrs. Olive C. Remsburg would deed to Keedysville Corp., for $ 1,200.00, the following

107

Sept. 14, 1959

A meeting of the Mayor and Council was held at Taylor Park, Sept. 14, 1959 with all members present.

Previous to the meeting, the members met at the school house to decide on the location of several street lights for the area around the school house and the Reform Church. This was agreed upon and the Potomac Edison will be notified to install them.

Mr. Thayer of the State Roads Commission notified Mayor Schwagel that we should have our streets patched and completely repaired this fall. With this in mind, there was a motion by Councilmen Rowe, 2nd by Asst. Mayor Hines to notify Bob Lakin to have E. D. Plummer proceed with the patching and sealing at his earliest convenience. Passed.

Councilman Rowe was asked to contact Sam Snyder, Charles Stotler, Ralph Taylor, Russel Geeting, George Miller and Pythian Assoc. to ascertain their feeling in replacing cems; or black top in front of their properties. Robert Line was asked to the meeting to inform him of the legal opinion concerning the alleged alley boarding his lot. In the opinion of our attorney the town is not responsible whatsoever for opening an alley as such. It was concluded by the council that the two property owners involved should be responsible.

It was reported that Mr. Stiles will sign deed as asked with one exception. That he will want an easement across said roadway for a water line.

Sheriff Price notified the Mayor that John Long, Sr. has been appointed deputy sherif for this area. There was a motion by Councilman Miller, 2nd by Kline to acknowledge John Long, Sr., as the law enforcement officer for the town. Passed.

The treasurer reported the following balance:

General Fund $ 2,328.54 and State Revenue Fund $ 6,796.24

There was a motion by Asst. Mayor Hines, 2nd by Councilman Miller to transfer the street fund, dating back to,1956, to the State Revenue Fund. Passed.

The Mayor received a letter from Charles B. Huyett, a member of the Legislative Council Commission, asking the council to attend a banquet and meeting of the Potomac River Commission, The time and Place is Oct. 6, at 6:30 P.M. at Hotel Alexander. The cost of the banquet is $ 4.00 per person. After some discussion, it was decided to consider attendance at the next meeting.

It was agreed to renew our membership in the Maryland Travel League for another year

There being no other business, the meeting was adjourned

John W. Long Jr.

John W. Long, Jr.
Town Clerk

111

Oct. 12, 1959

A joint meeting of the Mayor-and Council and Water Board was held at Russel Geeting's Red Wood Lodge. All members were present from the Town Board, with Harold Low being absent from the Water Board.

The Mayor reported that the State Roads Commission refused to waive the bridging of the highway through town.

At this time, Bob Lakin and E.D. Plummer were present and presented the followin

There are about 30 sections to be bridged at a cost of $ 90.00 each. Approximate $ 30.00 for reinforcement and $ 60.00 for cement.

3850 sq. yds of patchings	-	$ 11,700.00
30 bridgings	-	2,700.00
		$ 14,400.00

Upon a motion by Councilman Rowe, 2nd. by Kline, it was decided to have E.D. Plu mer proceed with the work at once. Passed unanimously.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

Nov. 23, 1959

The regular meeting of the Mayor and Council was held at the town library with al members present except Councilman Miller.

A bill was received from J.B. Ferguson for the installation of the water fountain and hydrant in Taylor Park. The total amount was $ 537.92. Upon a motion by Councilman Kline, 2nd by Rowe it was decided to pay this amount.

Mayor Schwagel reported that he had sent a letter to the State Roads Commission informing them that patching of our streets had been completed according to state specification. Also he asked them to include resurfacing of the street, in the budget for 1960.

Councilman Rowe suggested that a post or guard rail should be installed at the Mill bridge abutment facing the new highway. This will be considered.

The Mayor gave the following breakdown for the budget for 1960:

$ 1,160.00	Lights
120.00	Library
150.00	Can & Ash Collection
1,200.00	Hydrants
400.00	Administration
225.00	Park
100.00	Legal Advice
50.00	Miscellaneous
$ 3,405.00	Total Budget

With these facts in mind, it was considered absolutely necessary to increase the tax rate for the coming year.

The total town tax for the present year grossed approximately $ 2,150.96 which is definitely inadequate. An increase in taxes will be considered at a later date.

The clerk was asked to send a letter to the Chairman of the Water Board and request a financial report as of Dec. 31, 1959.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

139

1-9-61

THe Town Council met at the Library with the following present, Mayor Schwagel, Asst. Mayor Hines,,Councilmen Miller and Brandenburg.

The financial report for the year 1960 was given and passed as stated.

Robert Line appeared before the council regarding the opening of an alley known as Harris Alley.He was told that this was a matter to be settled between property owners as this does not come under the jurisdiction of the town. Mr. Line also requested the town to repair the alley leading to rear of former Ed. Poffenberger home so that he may have access to this property. The Council agreed to check into this, since this is a legal town alley.

Mr. Howard Remsburg appeared before the Council to request an increase of $ 5.00 per month for rent of the library rooms. There upon a motion by Asst. Mayor Hines, seconded by Councilman Brandenburg to grant increase providing Mr. Remsburg repairs the floor with a permanent covering. Passed unanimously.

Mayor Schwagel suggested that we should set aside a night to submit a financial report to the public possibly Wednesday Jan. 18th at the School House.

The Mayor checked material for voter registration. He reported that the cost would be approximately $ 52.00 for materials. Motion made by Councilman Brandenburg, seconded by Councilman Miller to obtain appropiate material for registration. Passed unanimously.

Bills were received for liability insurance- $ 174.25 and Workman's Compensation Insurance $ 44.00. Voted to be passed unanimously.

It was agreed among the members that the Washington County Municipal League is a good thing and that any town official attending these meetings should have expenses paid by the town.

It was voted to retain the .57 town tax rate per $ 100.00 of assessed value of property.

There being no other business the meeting adjourned.

John W. Long Jr.
Town Clerk

145

4-10-61

The Mayor and Council met at the Library for the express purpose of naming the Streets of Keedysville.

Concilman Kline and Brandenburg acted as a committee for naming the streets and presenting these to the Council for approval.

The following names were suggested and approved: Main Street, being the main street of Keedysville; Mt. Hebron Rd., extends southeast from Main Street; Mt. Vernon Lane, runs parallel to Main Street- northeast from Keedysville School; Antietam Drive - parallels Antietam Creek; Red Hill Rd. -running southeast from Main Street; Coffmans Rd.- running northwest from Main Street to Rt. 34; Taylor Drive running around Taylor Memorial Park and northwest to Rt. 34; Harris Lane- running southeast from Main Street parallel to the railroad tracks; Bell Lane- curving around the southeast side of Main Street; Mountain View Lane running parallel to Main Street on the southeast side; Keedy Drive on the northwest side of Main Street- northeast of Taylor Park; Park Lane running parallel to Main Street on the northwest side from Taylor Park to the Ball Park.

Some of the rejected names included McClellan Rd., Monument Lane and Ruritan Ave.

Now that the streets are named the next project will be numbering the houses.

The work of Councilman Kline and Brandenburg was warmly praised by the rest of the Keedysville Mayor and Councilman.

John W. Long Jr.
Town Clerk

4-24-61

The Town Council met at the Library.

The Treasurer reported the following fund balances: State Revenue- $1,677.62 General Fund $3,060.65

Since a check is due the State Fund in the amount of $686.09, it was decided to pay $2,000.00 to E.D. Plummer on our street patching obligation.

The street signs were discussed and it wasdecided that we would need 13 cross and 5 straight signs. These would require 18 posts.

Councilman Brandenburg and Kline were asked to obtain prices on pipe and signs needed for this project and report back at next meeting.

It was decided that postal cards will be sent to the property owners notifying them of their respective house numbers. These numbers must be bought by the property owner themselves. The completion of these projects has been tentatively set for July 1.

R. F. Kline, a contractor from Frederick, will be asked to attend our next meeting to discuss the possibility of developing land within the town limits.

The Mayor reported that Ed. Moser will dig drainage ditch to clear the A. H. Snively land of water.Flooding was caused by improper drawing of streets and alleys.

Howard Remsburg and Kenneth Ellis were selected as Election Judges and ballots were ordered printed for the Town Election, May 6, from 4 to 7 P.M. at the Library.

There being no other business the meeting was adjourned.

John W. Long Jr.
Town Clerk

151

5-22-61

The regular meeting of the Town Council was held at the Library with all members present.

The treasurer reported that the balance owed E.D. Plummer is $1,786.00 with a balance in the State Revenue Fund of $363.71. The amount in the General Fund is $2,735.87.

It was reported that a riding mower had been bought for use in the Park for $175.00. The purchase from the Gun Club had previously been sanctioned by the Council.

A complaint was received from Ralph Reeder concerning the drainage ditch between his property & Robert Lines lot. The ditch has washed out, leaving pockets for stagnant water, causing an unhealthy condition. The Mayor will check with the State Roads Comm. to see if they might help us with this situation.

Councilman Brandenburg reported the following costs for our street signs; Pipe- $100.30, 5 single tops @ 5.75 - $28.75, 13 double tops @ 7.75 - $100.75, making a total of $229.80. Upon a motion by Asst Mayor Hines & seconded by Councilman Kline, it was decided to purchase these materials, with a six weeks delivery date. Councilmen Kline & Brandenburg were asked to pin point exact location of the sign posts by placing a small stake as amarker.

The Mayor reported that the resurfacing of our main street is near at hand & that bids will probably go out this week.

Some contention was reported concerning the use of the Ball Park. The following schedule had been set up and will be maintained as such; Antietam Ball Club- Saturdays and Sundays, Little League- Tuesdays and Thursdays, and the Soft Ball Team- Mondays. Any other dates will have to be arranged with Councilman Kline, who has charge of the Ball Park.

Asst. Mayor Hines & Councilman Brandenburg attended the kick-off meeting for the restoration of the Dunker Church and reported a very educational & well spent evening.

The Clerk was asked to send out cards for the numbering of the houses, around June 15, with a goal for installation around August 1st. The following information is to be given on the card: In lieu of an ordinance adopted by the Mayor & Council, that all houses be numbered, we wish to inform you that your number will be ____. Your cooperation in installing your number by August 1st., will be appreciated. Mayor and Council of Keedysville.

The Mayor made the following appointments, with the consent of the Council; Lester E. Hines- Park Superintendent & E. Stafford Kline- Ball Park Superintendent.

There being no other business, the meeting was adjourned.

John W. Long Jr
Town Clerk

6-13-61

A short meeting of the Mayor & Council was held at Taylor Park.

The resurfacing of our street is in progess & no parking signs had to be purchased at a cost of $4.50. A question arose as to whether the State Roads Comm. will pave the dead end portion of our main street at the Northeast end of town. Every effort will be made to have them do this, but if not possible, it was agreed that the Town would obligate itself at a cost of approximately $500.00. This expenditure would be allotted from the State Revenue Fund.

Some trouble spots in our main street were checked into & it was decided to let the Contractor take care of these in the best possible manner, at aminimum of cost.

There being no other business, the meeting was adjourned.

John W. Long Jr
Town Clerk

153

7-3-61

The Town Council met at the home of Mayor Schwagel. All members were present.

There have been quite a few requests asking that the Council obtain sample house numbers with prices and post in the lobby of the Post Office. Thereupon persons desiring to purchase these would place their name and house number in the proper space for delivery in the near future. This was agreed upon by a motion by Councilman Kline and seconded by Hines and passed.

There is some contention concerning the direction in which our main street runs. If our street signs have not been finished as yet, it was decided to change to East and West from the previous North and South.

A complaint concerning odors near the center part of town will be checked by the Health Dept.

It was decided to check with the State Roads Dept. to see if something can be done to the frontage of the Earl Lambert property.

A bill was received from R. F. Kline for $ 588.00 for the paving of the dead end section of our main street. This will be checked on by the Mayor before further action will be taken.

The treasurer reported the following fund balances: State Revenue Fund- $ 363.71 General Fund- $ 2,475.13.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

8-29-61

The regular meeting of the Town Council was held at the Library with all members present, except Councilman Miller.

It was decided to send another post card to delinquent property owners who have not as yet installed their house numbers. The content shall be as follows: "If you have mot already installed your house number, we would appreciate your doing so by Oct.15. Your cooperation will be appreciated." The Clerk was instructed to follow through with this.

The street signs were discussed. The pipe must be cut and locations marked for installation. Councilmen Brandenburg and Kline will contact Ed. Moser and have this work completed as soon as possible.

The treasurer reported the following fund balances: State Revenue Fund- $ 2,204.50 General Fund- $ 2,767.86.

The Council then voted to pay off the following from the State Revenue Fund. E. D. Plummer- balance owed on street bridging- $ 1,786.00, Noland's- pipe for street signs- $ 105.27 and State Use Industeries- for street signs- $ 119.50.

If the bill of $ 588.00 from R.F. Kline need be paid by the town, it will necessarily have to be held off until the end of the year.

The following persons were recommended by the Water Board and approved by the Mayor and Council to serve as members of the Water Board; George Snively, Eldon Pound and Robert Wyand.

Mr. Shifler, of Boonsboro, has checked the town park for complete wiring, flood-lighting etc. and estimates a cost of approximately $ 300.00. He will work out a plan and present it to the Council for consideration.

The Wash. Co. Municipal League will meet at the National Restaurant, Hancock, Md., with a full evening of discussion on Civil Defense. The date is monday Sept.18, at 7:P.M.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

157

12-29-61

The Town Council met at the Library with all members present.

Mrs. Grace Fleming appeared before the Council and explained some plans for the Antietam Centennial Celebration. The Town can pick a day of its own to put on special events, such as a parade, antique display or whatever could be worked out. It was thought that a saturday, possibly in conjunction with the Ox Roast might be suitable. Mrs. Fleming was asked to organize a committee to discuss and make plans, then report back to the Council not later than March. Plans have to be worked out and a day picked so that brochures can be printed far in advance for distribution all over the states. The Council promised to cooperate in any way possible including financial help.

Mr. Russell Geeting appeared, concerning the upkeep of the cemetery. He reported that it is actually run by a group of townsmen who are known as the Cemetery Assoc. At the present time the Assoc. is very inactive and the responsibility falls on one or two individuals. The group has approx. $ 2,500.00 on interest, which does not pay nearly enough for upkeep.

Councilman Miller was asked to estimate the cost of upkeep, including mowing, trimming etc. Also he is to arrange a meeting of the Cemetery Assoc. and try to organize same to operate as it should. He is then to report back to the next Council Meeting.

A full financial report for the year 1961, was submitted by the treasurer. The year was ended with a balance of $ 1,957.44, which is well within the budget. This report will be audited by Mr. Kepler, cashier of the bank, and then be posted on the bulletin board at the Post Office.

A budget of $ 4,475.00 for 1962 and anticipated expenditures of $ 4,471.89 were passed and approved.

The Mayor was commended for a fine job in compiling the financial report for the past year.

Councilman Brandenburg & Kline were instructed to check the town alleys for necessary repairs, as soon as the weather permits.

Councilman Miller will check several delinquent property owners and try to have them install their house numbers.

Councilman Kline reported on Civil Defense. He has appointed a committee consisting of Mrs. Grace Fleming, Bruce Shipley & Rev. Ivan Naugle. The committee was approved by the Council and it was suggested that Bruce Shipley, Principal of the school, be asked to accept the chairmanship. Kline will check further concerning an alarm system for the town.

The Washington County Municipal League will meet Jan. 29, at Williamsport. The topic of discussion will be the Antietam Centennial. Members of the Council will attend.

Upon a motion by Asst. Mayor Hines and seconded by councilman Miller, the tax rate for 1962 was set at .57 per One Hundred Dollars of assessed value.

There being no other business, the meeting was adjourned.

John W. [illegible]
Town Clerk

159

2-9-6 2

The Mayor & Council met at the town library with the following members present: Mayor Schwagel, Councilman Kline & Miller.

The treasurer reported the following fund balances: General Fund - 1,642.93, State Revenue Fund - 1,166.61.

Councilman Miller reported that Robert Line does not seem to want to cooperate in installing his house numbers. Mr. Miller will now contact Roberts father to see if he will cooperate and install same.

Mrs. Grace Fleming appeared before the Council to report on Centennial plans. The local committee had made tenative plans for Keedysville Day tobe observed on Sat. Sept. 8th. The Commission then informed us that this day could not be had and suggested Tues. Sept. 4 th. instead. After quite some discussion it was decided to accept Tues. Sept. 4 th. as Keedysville Day. Mrs. Fleming reported that the committee is planning a parade, antique show, old fashioned dinner, dress in periodic attire etc. A brochure will be prepared consisting of a history , program and a map.

A motion was made & passed to allot $25.00 to Mrs. Fleming for expenses incurred by the committee. It was also sanctioned to donate $25.00 to the Antietam South Mountain Centennial Commission.

Upon a motion by Councilman Miller & seconded by Kline, it was passed to keep our park open during the period from Sept. 1st. to 18th. with absolutely no reservations for Sept. 2,3,4 & 5th.

Councilman Kline & Brandenburg were instructed to inspect the town alleys and decide which are in the worst state of repair and report such to next meeting.

The Mayor reported that Elmer Wyand & Harold Lowe were the two new members being added to the Park Board for this year.

It was suggested that Councilman Kline should appoint another member to the Civil Defense Committee and renew efforts to obtain a chairman from the group.

After some discussion concerning our State Parks, a motion was presented and passed to ask for the removal of parking fees from said parks. The Clerk was instructed to send letters to Senator George Snyder & Delegate Herbert McElwee concerning this.

There being no other business the meeting was adjourned.

John W. Long Jr.
Town Clerk

161

3-14-62

The Mayor & Council met at the Library with all members present.

Mr. Charles Churchey appeared before the Council on behalf of the Antietam Ball Club to request permission to use the town ball diamond. The request was granted, pending the working out of a schedule in conjunction with the Little League Team. The Antietam Club was given the go ahead to put the diamond in shape with the Town sharing part of the cost. Councilman Kline will represent the Town Council in all transactions concerning the Baseball Diamond.

The Insurance Auditor requested some information concerning the town facilities. The forms were turned over to our insurance agent, Russell Geeting.

The Health Dept. checked some areas in town and notified some property owners to take action on cleaning up the mess. A copy of the letter was sent to the Mayor with a suggestion that the town install a Sewerage Disposal System.

The States Roads Commission has agreedto do some work on the drains at the Ralph Reeder residence and Ralph Taylor truck lot.

There was quite some discussion concerning the purchase of a weed sprayer to be used on our alleys and areas of our park. It was thought that a one man mobile unit would be the most feasible. Councilman Brandenburg was asked to check prices and report to the next meeting. Also it was decided to check the possibility of contracting this work.

The Potomac Edison will be asked to replace the globe on the bridge light.

Keedysville town limits were discussed. Ordinances dating back to 1888 were checked with a supporting map showing the boundary outline. The line supposedly lies Five Hundred Yards to the East of Main Street and Five Hundred Yards to the West of Main Street. The boundary on the North is a Farm Road and on the South, Prys Mill Road. There will be further investigation on this matter.

The Clerk was instructed to notify the U.S. Steel Corp. concerning property which is within the town limits. The exact tax status will be sent them as soon as the town boundaries are pin-pointed.

Itwas requested that the Park Board check on prices for Rest Rooms at the Town Park. Also consider painting the picnic tables for the coming season.

The following dates were decided upon in conjunction with the annual election.
Voter Registration at the Library - April 7, from 4 to 7 P.M.
Nominations for Town Officials - April 21, from 7 to 8 P.M.
Regular Election - May 5, from 4 to 7 P.M.

It was passed unanimously to have the Clerk send a letter to the Potomac Motor Lines protesting removal of the afternoon bus service through Keedysville.

The treasurer reported the following fund balances:
General Fund - 3,760.43 , State Revenue Fund - 1,166.61

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

171

6-19-62

A meeting of the Town Council was held at the Library with all members present.

Mr. John Larsen, a representative of Community Development for the Potomac Edison Co. met with the Council to discuss the possibility of land development for Real Estate and possibly a small industry. Also a community building will be considered in line with this development. Mr. Larsen will draw up maps of certain areas and lay out in the best possible manner and proceed from there. By use of said maps, streets and lots can be laid out to the best advantage. The plan will be spread out over a period of 25 to 30 years with certain goals to be attained at 5 year intervals. The two parcels of land that are being considered are Mrs. Remsburgs land bordering Mt. View Drive and Martha Taylors land bordering Park Drive. Both owners have pledged full cooperation toward development of this land. Upon receipt of a report from Mr. Larsen and with full consideration, a decision will then be made as to where we should begin. Councilman Sinnisen will keep in touch with Mr. Larsen.

It was reported that some of the town alleys are being resurfaced, with work to be completed in several days. The cost of this work will be $ 3,058.00 .

The Town Park is being re-wired for flood lighting and better electrical circuits. This is hoped to be completed by July 4th. in time for the town homecoming.

The following fund balances were reported by the treasurer:
General Fund - $ 3,405.91 ; State Revenue Fund - $ 1,885.42

Upon a motion by Councilman Brandenburg & seconded by Sinnisen it was passed to ask State Police to give warning tickets to illegal parkers in the Town limits.

The Centennial Committee has asked the Council for expense money. The Town will allot $ 100.00, to be returned if profits permit.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

8-21-62

A meeting was held at the Town Park with all members present except Asst. Hines.

The bill from R.F. Kline for paving alleys will not be paid until Councilman Brandenburg gives the ok. This will not be forthcoming until several items are corrected.

Councilman Brandenburg will see that the curb in front of the Line House is painted making this a no parking area.

The Centennial Committee has asked permission to use a section of the Park for parking cars and also as a point to shuttle buses to and from Sharpsburg during the re-enactment on Sept. 15 & 16. We will receive 50¢ for each parking ticket turned into Centennial Headquarters. This was passed unanimously.

After some discussion, it was decided that the Boonsboro Ambulance Club should canvass the town instead of requesting a donation from the Town Council.

The Clerk is to poll the Park Board concerning Centennial parking.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

179

12-20-62

The Mayor & Council met at the Library with all members present except Councilman Brandenburg. Bill Baker & Buzzy Everline were present from the Potomac Edison Co. to give an explanation concerning the change in the lighting system for Keedysville.

The lights have been re-wired in a series to work independantly so that when one unit is knocked out, the remainder of the system remains intact, thus giving more adequate service to the town. The change-over has been completed except for the bridge lights which will have to be re-wired and this will be the sole responsibility of the town to do so. Mr.Baker stated that he will personally see that $50.00 be paid by the Potomac Edison toward the bridge lights. He was thanked most heartily and wished the best of luck on his new assignment at Cumberland.

There was a motion by Asst. Mayor Hines & seconded by Councilman Sinnisen to rewire the bridge lights and to notify Seibert Shifler to proceed with the project as soon as possible.

It was decided that the bill from R.F. Kline for work done on our town alleys must be paid before the end of the year and a letter will accompany said payment stating that the job was not completed to our satisfaction.

Upon a motion by Councilman Ellis & seconded by Sinnisen the Clerk was instructed to write a letter to County Surveyor Seibert asking an explanation for the delay in completion of the survey of the town limits. Also "proper concrete markers" will be added to the minutes of March 28,1962.

It was reported that plans for the Town Hall have been drawn up and copies have been made and presented to contractors for sealed bids. Said bids with the proper forms will then be processed through the Accelerated Public Works Act for a federal grant.

It was decided to hold voter registration on Sat. Jan. 12 from 4 to 6P.M. at the Library.

A balance of $111.43 from the Centennial funds will be requested to be turned over to the building fund.

A motion was made & passed that the tax rate for 1963 will remain at .57 per one hundred dollars of assessed value.

A new Post Office for Keedysville was discussed and Mayor Schwagel agreed to obtain information and write to the proper authorities concerning this.

Councilman Ellis will endeavor to obtain a representative of the State Roads Commission to attend a town meeting to enlighten us concerning right of ways to our Park and a Development.

Councilman Sinnisen & Ellis were instructed to compile a list of properties which create nuisances such as running waste water on the street, parking on pavements etc.

Councilman Sinnisen will contact Mayor Koomtz of Sharpsburg concerning town ordinances.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

191

5-9-63

The Mayor and Council met at the Library with all members present. Councilman Lowe and Kline were welcomed as new members of the Council.

The Treasurer reported the following fund balances:
General Fund: $ 4,561.64 and State Revenue Fund: 3,002.52.

The Mayor made the following Assignments:
Asst. Mayor Hines - Ball Park and Taylor Park.
Councilman Sinnisen - Water Board Rep. Community Bldg. and Land Development.
Councilman Kline - Drainage and Streets.
Councilman Lowe - Street Lighting and Miscellaneous.

It was reported that the Ball Park and Taylor Park expenses are exceeding the budget and care will need to be taken for the remainder of the season.

Councilman Kline was instructed to contact interested Contractors and have them bid on re-paving alleys from Bell property to Main Street, Mt. Vernon Drive from Antietam Drive to Eakles Mill Road and Hebron Rd. from Norris property to Remsburg farm. Also repair and patch all other alleys where necessary. All bids must be mailed in care of Citizens Bank and received no later than May 31, 1963. Bids will be opened and a contract awarded at our next meeting.

It was decided that we should get the Potomac Edison Co. to anchor the light poles in Taylor Park so that the flood-lights can be permanently set. Also the rest rooms are to be painted as soon as possible.

It was agreed that the Council would attend the Memorial Day Parade in Boonsboro on Sunday May 26.

Mr. Hildebrand of the State Roads will be in town soon to see what can be done to the drain at Foster Valentines property. He will also be asked to check the drain in front of the Grace Baker property.

There was a motion by Councilman Lowe and second by Kline and passed to acknowledge John Long Sr. as Law Enforcement Officer for this area, as designated by Sheriff Charles Price.

Councilman Sinnisen reported that the Community Building forms are still being processed and are now being held for Health Dept. Certification for the area involved.

Letters were received from Max Dagenhart, Pauline Dagenhart, Goldie Wyand and Roscoe Hammond to have their names removed from the petition presented concerning the Town Hall.

It was decided to try to have at our next meeting a State Roads Representative to enlighten us on parking rules in town limi ts or a Health Dept. Rep. to discuss Health and Sewerage problems.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

193

6-3-63

The Mayor and Council met at the Library with all members present.

Councilman Sinnisen reported that the Label Factory,of which there was a possibility of locating in this area, has gone to Berkley Springs where land was donated.

After quite some discussion, there was a motion by Asst. Mayor Hines and second by Councilman Sinnisen to withhold the cancellation of our land development program for a period of thirty days to make a final effort for some progress on same. Motion carried.

Councilman Kline reported that Mr. Stone will try to complete the alley and drain as agreed before our street paving program begins.

The following bids were received for re-surfacing ofspecified alleys:

R. F. Kline - $ 3,796.00
E. D. Plummer - $ 2,869.25
Bester Long & Co. - $ 2,289.50

It was agreed to award to the lowest bidder after a final check with the Contractor on specifications.

Mr. Bowser, County Roads Supervisor, will ask the County Commissioners for permission to use plows to remove snow from our town alleys and bill Keedysville for this service at end of each month..

Councilman Lowe will contact the B.& O.Railroad about the possibility of leasing the land where the old station stands. Information is that the building will be torn down and it is believed that this would be very appropriate for a parking area.

The weed problem in our town alleys and Park areas was discussed. Councilman Kline will contact Warrenfeltz and have him check the areas involved to see what can be done to eliminate this eye-sore.

The Clerk was instructed to call Norm. Ayers and have him remind County Surveyor Seibert that we are still anxiously awaiting the completion of the survey of our town limits.

The Mayor reported, that according to state records, the Water Line involving the Keedysville Water System, extends 11,200 feet on state property.

The next town meeting will be held on Monday, July 1, at 7:30 P.M.

There being no other business, the meeting was adjourned.

John T. Long Jr.
Town Clerk

7-11-63

A special meeting was held at the park with all members present.

The Water Board recommended that Mrs. Martha Taylor & Mr. Wyand Rohrer be appointed to three year terms on the Water Board. It was voted unanimously by the Mayor & Council to accept these appointments.

Councilman Kline was instructed to give a report at our next meeting on the street paving project and make recommendations accordingly.

Mayor Schwagel reported that a meeting of the Wash. Co. Study Commission will be held at the Alexander Hotel on Monday July 15, at 8 o'clock. A full report will be made by this group and all who possibly can should attend.

There being no other business, the meeting was adjourned.

8-5-63

The Mayor & Council met at the Library with all members present. The minutes of the previous meeting were read and approved.

After some discussion, there was a motion by Councilman Lowe and second by Sinnisen and passed to divide certain purchases made by the Town among the several businesses within the Town limits. It will be worked on a yearly basis.

It was reported that our street signs have been anchored in the proper positions and should remain so.

The State Roads Dept. has agreed to install new drain covers at Valentines Store and across from the Bank.

Councilman Lowe was instructed to contact Mr. Brown of The Health Dept. to see what has been done toward eliminating odors from drains.

The B.& O. Railroad has expressed willingness to lease the old station site for parking and asks the Town Council to state what they would be willing to pay for rental. This will be investigated further once the building is completely removed.

The Mayor reported that the Wash. Co. Study Commission gave a splendid report and will follow through on same.

There was some discussion concerning the difficulty of obtaining qualified persons to serve on the Water Board & Park Board. Therefore it was decided to reduce the number of persons on the Park Board to three. The following persons were agreed upon: Rev. Harry Kottler - 1yr. Max Dagenhart - 2 yrs. & Leoda Roulette - 3 yrs.

Councilman Kline was instructed to set up a meeting at Mrs. Van Rensselaer's to discuss matters concerning an alley.

Councilman Sinnisen will contact Mary Kefauver to have her appear at our next meeting, with a representative of the Library if possible.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

10-2-63

The Town Council met at the Library with all members present. The minutes the previous meeting were read and approved.

It was generally agreed to set up the first Thursday of the month as the regular meeting night for the Council.

The treasurer reported the following fund balances:
General Fund - $ 3495.63 and State Revenue Fund - $ 2253.10

Mrs. Van Renssalaer asks that any action on an alley in rear of her property be delayed until next spring.

The drains at the Highbarger & Bell properties will be completed as specified within the week.

It was decided to hold trick or treat night the same as Hagerstown which will probably be October 31, from 7 to 9P.M.

It was reported that the state standard for any alleys or streets, wherein state revenue is used, will be 30 feet in width. Councilman Kline will check our existing alleys to ascertain the approximate widths.and what would be involved to widen to state standards.

A letter was received from the B. & O.Railroad informing us that right-of-ways for which the Town has been paying $ 1.00 per year, will be increased to $ 25.00. Councilman Lowe will contact Railroad Officials concerning the possibility of leasing the old station site before any decision is made.

Councilman Lowe will continue to investigate health conditions, such as draining wash water & waste into street or alleys.

Mayor Schwagel & Councilman Sinnisen will study ordinances and then present their findings at a later meeting. They will also check on parking tickets and how they can be handled.

It was decided that Taylor Park will be officially closed Nov. 1st. Water will be turned off, Rest Rooms closed etc.

The semi-annual registration of voters for town elections will be held Oct. 21, from 7 to 8P.M. at the Library.

There being no other business, the meeting was adjourned.

John W. Long Jr.
Town Clerk

APP059
5-1-65

24

Results of Keedysville Town Election

Mayor

Rome F. Schwagel - 41 votes

Asst. Mayor

Lester E. Hines - 38 votes

Councilman

E. Stafford Kline - 39 votes
Harold B. Lowe - 37 "
Richard Sinnisen - 38 "

Election Judges were Howard Remsburg and Harry C. Kottler.
Total votes cast were 48.

John W. Long Jr
Town Clerk

5-6-65

The Town Council met at the Library with all members present except Councilman Lowe. The minutes of the previous meeting were read and approved.

The treasurer reported the following fund balances: General Fund 5,438.12 State Revenue - 613.34.

It was reported that the walnut tree in the spring area has been sold at a net profit of 110.00.

The project of re-inforcing the bridge leading to the spring has been completed under different specifications for a total cost of 900.00.

Councilman Sinnisen will request the presence of the Water Board at our regular meeting in June at 8 o'clock.

Park Board member Homer Reed reported that Mrs. Lewis will be Counselor for our Playground Program. It was voted to deposit 300.00 in the Park Board Fund to cover expenses for this project.

Councilman Kline was asked to make a study of Washington & Frederick Counties on population, assessable basis, and salaries of town officials.

Keedysville will be host to the Wash. Co. Municipal League at the Red Byrd Restaurant, 7 P.M. on May 24.

Asst. Mayor Hines will have Warrenfeltz to spray alleys to control weed growth. This should be done as soon as possible.

There was a motion by Councilman Sinnisen & second by Kline to have Tommy Remsburg install a fourteen foot gate with posts, furnishing all materials, at a cost of 40.00. Motion passed unanimously.

The Cemetry board has asked the Town to notify them when we have more work done on town alleys. Cemetry roads are in need of repair.

There being no other business, the meeting was adjourned.

John W. Long Jr
Town Clerk

2-5-75

The Town meeting was called to order by Mayor Ralph Taylor. Also present were Asst. Mayor Hines and Councilman Mitchell and Sinnisen.

A motion by Hines and second by Mitchell and passed to allow Boonsboro-Keedysville slow pitch league use of the Town Ball Diamond for 1975. The association must of course maintain the property and keep in good condition.

There was quite some discussion concerning the use of the Town Building by the Wash. Co. Sheriffs Dept. Thereupon a motion by Sinnisen and second by Mitchell that the Wash. Co. Sheriffs Dept. be invited to use a room in the Municipal Building for store front operation. It is felt that this would be a step in the right direction toward better police protection for our area.

Asst. Mayor Hines was instructed to check with Hutzell at the County Roads Building about plowing snow from our alleys and roadways. If no results are forthcoming then Mayor Taylor will check with the County Commissioners concerning same.

There was further discussion on the sewerage system and petitions concerning same. Petitioms are being circulated and results will be forthcoming, possibly at the next meeting.

The next regular meeting will be April 2, 1975. There being no further business, the meeting was adjourned.

John W. Long Jr
Town Clerk
Per- Richard Sinnisen

E-FIl
E-FILED; Washington County Circuit Co
Docket: 12/11/2023 8:01 AM; Submitted: 12/11/2023 8:01 AM
Envelope: 8376501

IN THE APPELLATE COURT OF MARYLAND

September Term 2023
No. 883

UNCLE EDDIES BROKEDOWN PALACE, LLC

Appellant

v.

JEFFREY YOUNG

Appellee

Appeal from the Circuit Court of Washington County (C-21-CV-20-371)
The Honorable Andrew F. Wilkinson presiding

BRIEF OF APPELLEE JEFFREY YOUNG IN RESPONSE TO BRIEF OF JUSTIN HOLDER

/s/ Victor E. Cretella
Victor E. Cretella III, Esq.
No. 9612170207
The Badaki Law Firm, LLC
111 W. Washington Street
Hagerstown, MD 21740
240-329-4616 (phone)
877-436-9079 (fax)
counsel3@badakilawfirm.com
Attorney for Appellees

EXHIBIT D

TABLE OF CONTENTS

STATEMENT OF THE CASE 4
QUESTIONS PRESENTED 11
STATEMENT OF FACTS 11
A. Lay of of the Land 11
B. Justin Holder's Claims 13
C. Deena Holder and UEBP's Claims 13
STANDARD OF REVIEW 144
LEGAL DISCUSSION 145
CONCLUSION 15
REQUEST FOR A HEARING 15
CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112 16
CERTIFICATE OF SERVICE 16

TABLE OF AUTHORITIES

Agency Ins. Co. v. State Farm Mut. Auto Ins. Co., *193 Md. App. 666, 998 A.2d 936* ____ *14*

Crane v. Dunn, *382 Md. 83, 854 A.2d 1180 (2004)* ____ *15*

STATEMENT OF THE CASE

On September 16, 2020, Appellee Jeffrey Young ("Plaintiff") filed a Complaint in the Circuit Court for Washington County (the "Young Action") (Case no. C-21-CV-20-000371) against Appellant Justin Holder, Deena Holder, and "unknown persons . . . [who] may claim . . . any interest" in "Parcel 2" and "Parcel 3" of Mr. Young's property. R. Mr. Young sought to enjoin the Holders from trespassing on "Parcel 2" and "Parcel 3" of his 10+ acre property, which is located at 13 Dogstreet Road, Keedysville, Maryland ("Young Property"), and/or to quiet title in those parcels. R.

The Holders filed separate answers to the Complaint on or about October 26, 2020, challenging Mr. Young's claim to exclusive interest in his land. E1029-1099. The Holder's company, Uncle Eddie's Brokedown Palace, LLC ("UEBP"), filed an answer on October 27, 2023, claiming that it also held an interest in the Young property. R. The Holders and UEBP may be referred to herein as "Defendants".

Mr. Holder submitted a letter to the Court on May 23, 2022, requesting bifurcation of trial. Appx. 136. In that letter, Mr. Holder suggested he needed 10 days to litigate whether the Young Property was burdened by "public rights of record." Appx. at 132-134. At a pretrial conference held on June 6, 2022, the Court effectively granted a motion in limine precluding Mr. Holder from presenting evidence on this issue. Specifically, the Court stated: "I will not hear evidence on public roads". Appx at 137.

Trial was held in this matter from June 21, 2022, to June 23, 2022. At trial, Justin Holder claimed that he had acquired an ownership interest in .19 acres of the Young

Property (Parcel 3) by quitclaim deeds. Mr. Holder denied making any claim of ownership to Parcels 1 or 2 of the Young Property:[1]

> THE COURT: As we already talked about today, you are not making claim of ownership of Parcel 1.
> MR. HOLDER: Correct.
> THE COURT: You are not making ownership, claim of ownership of Parcel 2?
> MR. HOLDER: Correct.

Appx. at 176.

Deena Holder And UEBP both claimed that they had an easement over Mr. Young's Parcel 3 in order to access separate property owned by them to the north of the Young Property (the "Deena Holder Properties" and the "UEBP Property"). Appx at 179 (Deena Holder's attorney taking position that "Parcel 3 in this case . . . contain[s] an easement across it"); Appx at 181 (attorney for UEBP incorporating Deena Holder's arguments). When arguing for all Defendants,[2] Mr. Kline admitted during closing that defendants' claims/defenses were limited to Parcel 3 only. Appx. at 185 (admitting that none of the defendants were making a claim to Parcel 2 but were only "worried about Parcel 3"); Appx 11 at 186 ("conceding . . . that we're here about Parcel 3").

After receiving testimony and evidence from all parties, the Court entered Judgment for Mr. Young. Appx. 187-188. With respect to Appellant Justin Holder, the

---

[1] Mr. Holder argues that Mr. Young did not have a good faith explanation as to why he limited the relief requested by him to Parcels 1 and 2. Holder Br. at 20-22. Mr. Holder's argument blatantly ignores the fact that Mr. Holder has consistently disclaimed any right to Parcel 1. While Mr. Holder now claims that he has a right to Parcel 2, Holder Br. at 20-22, this claim is new because he disclaimed an interest in Parcel 2 at trial also.
[2] Appx. at 183 ("MR. KLINE: I believe it's Mr. Kline for all the Defendants, Your Honor").

Court held that he did not have an ownership interest in the Parcel 3. Id. The trial court then proceeded to void the three quitclaim deeds whereby Mr. Holder purported to acquire an interest in Parcel 3. Appx. at 189. With respect to Deena Holder and UEBP, the Court found that they did not have an easement over the Young Property via a "wagon road" to access land owned by them to the north. Appx. at 188. The Court then enjoined all Defendants from entering onto Plaintiff's Property for any reason. Id.

The final Order read as follows:

> This matter came to the court for a three-day trial on the merits, beginning June 21, 2022. Consistent with an Opinion issued this same date, it is this 6th day of September 2022, by the Circuit Court for Washington County, Maryland hereby:
>
> ORDERED, the relief requested in Plaintiff Jeffrey Young's "Complaint and Petition to Quiet Title and for Declaratory and Injunctive Relief" is granted as indicated herein.
>
> ORDERED, Plaintiff Jeffrey Young is the owner of Parcel 1, Parcel 2, and Parcel 3 as shown on Plat 2499, one of the land records of Washington County, Maryland.
>
> ORDERED, no other person has any ownership interest or claim in Parcel l, Parcel 2, or Parcel 3.
>
> ORDERED, the western boundary of Parcel 3 as shown on Plat 2499 abuts and borders the eastern boundary of the Stonecrest development as shown on Plats 8292-93, as said plats are recorded in the Land Records of Washington County. Maryland. There is no additional strip of land or Gap between Parcel 3 and the Stonecrest development.
>
> ORDERED, any deed purporting to transfer or quitclaim any part of Parcel l, Parcel 2, or Parcel 3 (as defined herein) to Justin Holder or to any other person is invalid and void.

> ORDERED, the "Wagon Road" easement created in 1872 by Aaron Cost and Malinda Cost, and recorded at W.McK.K. 6, folio 363 among the Land Records of Washington County, Maryland, is terminated in total across Plaintiffs lands and across the lands that comprise any part of the Stonecrest development and the appurtenant forest conservation area as shown on Plats 8292-93. However, nothing in this Order is to negatively affect the rights of Defendants Deena Holder (Tax Parcel 127 and Parcel 412) and Uncle Eddie's Brokedown Palace, LLC (Tax Parcel 414) for ingress and egress to their properties from Antietam Drive in Keedysville, Maryland and the access lane thereto as shown on Plats 8292-93.
>
> ORDERED, Defendants Justin Holder, Deena Holder, Uncle Eddie's Brokedown Palace, LLC, and any member or agent thereof, be and are hereby permanently enjoined from entering Plaintiff's land as described in the Opinion and this Order.

Appx. at 187-188. Mr. Young clearly won on all accounts.

In the Opinion accompanying the Court's Order, the court reaffirmed that Justin Holder was barred from pursuing any claim to open (or reopen) a PUBLIC road across the Young Property:

> In this litigation, and in other litigation in this court, Defendant Justin Holder has asserted that certain closed or unopened public roads exist on Plaintiffs land and that Mr. Holder is entitled to sue Plaintiff, and other private citizens, to have them opened. This issue was not considered during trial because the court made a preliminary determination that Mr. Holder cannot sue another private citizen to compel government to open an abandoned, unused, closed, or otherwise unopened road.
>
> Maryland law grants counties and municipalities authority to open, alter, or close local roads." If a public road exists, existed, or should exist on Plaintiff s land, such a determination is to be made by Washington County or Town

> governments pursuant to the Maryland Code and local law." Due to their involvement in the discovery stage of this case, the County and Town governments are aware of Mr. Holder's belief that public roads exist over Plaintiffs property. However, no government has filed suit or taken any action to open any road on Plaintiff" s property or otherwise objected to Plaintiff's ownership of Parcels 1, 2, and 3 free of public roads. Claims of public roads on Plaintiff's property were not heard because they are without merit.

Appx at 218. Inherent in this conclusion is the finding that there are NO existing public roads across Mr. Young's Property.

The Appellate Court of Maryland largely affirmed the trial court's decision, including the holding that Mr. Holder was barred from seeking an order compelling Mr. Young to open a new public road or reopen a closed public road across his property. E1163-1165, 1182 (affirming holding as to public roads). However, this Court found that since Mr. Young did not request relief as to Parcel 1 in the Complaint, it was error for the trial court to quiet title to Parcel 1 in its judgment. E1168, 1182. Accordingly, it remanded the case SOLELY to "remove the reference to Parcel 1" from the judgment and to award attorneys' fees to Mr. Young. Id. (emphasis added). The Supreme Court of Maryland denied Mr. Holder request for certiorari on other issues.

On remand, the trial court complied with this Court's instructions by removing each of the three references to Parcel 1 from its declaratory judgment:

> ORDERED, Plaintiff Jeffrey Young is the owner of ~~Parcel 1,~~ Parcel 2, and Parcel 3 as shown on Plat 2499, one of the land records of Washington County, Maryland.
>
> ORDERED, no other person has any ownership interest or claim in ~~Parcel 1,~~ Parcel 2, or Parcel 3.

***

> ORDERED, any deed purporting to transfer or quitclaim any part of ~~Parcel 1,~~ Parcel 2, or Parcel 3 (as defined herein) to Justin Holder or to any other person is invalid and void.

E1212-1213 (strikethrough emphasis added).

Although Judge Wilkinson did not remove every passing reference to Parcel 1 from his opinion,[3] he did remove many of the references. Compare Appx. at 197 (original order stating: "Any deed or attempted transfer of any portion of Parcels 1 or 2 by any person other than Plaintiff is invalid") with E1189 (revised order removing reference to Parcel 1 from the same sentence); Compare Appx at 209 (Original Order finding that Mr. Young was the exclusive owner of Parcel 1, Parcel 2, and Parcel 3 as indicated on Plat 2499) with E1201 (removing all 3 references to Parcel 1 from that same paragraph). Furthermore, the Court prefaced the opinion with language indicating that its relief did NOT extend to Parcel 1:

> **This court issued an Opinion and related Orders dated September 6, 2022. Following appeal and consistent [with] the directive of the Appellate Court of Maryland on remand in consolidated cases CSA-REG-1145/1147-2022, this Court's Opinion is updated to remove conclusions about Plaintiff's Parcel 1 from its declaratory judgment.**

E1183 (bold emphasis in original).

[3] See E1185 (explaining that Mr. Young's deed was comprised of 3 parcels).

After Justin Holder requested that the Court remove the remaining references to Parcel 1 from the Opinion and rescind the injunction as to Parcels 2 and 3, R (Motion to Alter or Amend filed July 12, 2023), the Court explained its rationale for retaining those few passing references:

> Regarding Parcel 1, this court removed Parcel 1 from the judgment as directed by the Appellate Court of Maryland. The court did not remove all mention of Parcel 1 in its opinion because there was evidence concerning the ownership of Parcel l, 2 & 3 at trial as they are contained in a single deed. Discussion and analysis by this court of deeds, plats, adverse possession. and ownership of Parcels 2 & 3 cannot be done thoroughly without acknowledgment and discussion of Parcel 1.

Appx. 3.

The Court also denied Mr. Holder's request to rescind the injunction as to Parcels 2 and 3:

> Regarding modification of the injunction, Defendant Holder suggests he is prepared to present evidence that alleged roads have not been closed by the Town of Keedysville and, therefore, the injunction should be modified. Roads were not considered in this trial because this court determined the opening or closing of roads is a legislative function. The appellate court found no error in this court's determination. The issue of whether a road is open or closed, or whether it ever existed at all, remains with the legislative body and is not ripe for this court.

Appx. 3.

Justin Holder and UEBP noted appeals to the modified order on July 3 and July 6, 2023 respectively. R. Plaintiff shall refer to the brief filed by Justin Holder as the "Holder Brief" and the brief filed by Uncle Eddie's Brokedown Palace, LLC as the "UEBP Brief".

QUESTIONS PRESENTED

1. Whether the trial court failed to remove reference to Parcel 1 from its declaratory judgment sufficient to comply with this Court's instructions in its May 6, 2023 Opinion.

2. Whether Appellants are able to relitigate their right to cross Mr. Young's Parcel 2 and 3 using nonexistent public roads when this Court foreclosed those claims in its prior Opinion.

STATEMENT OF FACTS

A. The Lay of the Land

1. Plaintiff Jeffrey Young owns property at 13 Dogstreet Road that is comprised of 3 parcels of property (the "Young Property"). Appx 220-221; E1295-1296; E1185-1187. It is a panhandle lot. E 1295-96. "Parcel 1" does not abut Dogstreet road. E1601. "Parcel 2" is a narrow strip of land towards the end of the panhandle which connects Parcel 1 to Dogstreet Road. Mr. Young Dedicated a portion of Parcel 2 to Washington County to facilitate Dogstreet Road. Appx. at 124-128. "Parcel 3" is a narrow strip of land on the eastern edge of Parcel 1 that adjoins what is now "Stonecrest Development". E1295-1296.

2. Plaintiff acquired his interest in the Young Property in 1988. E1133. Mr. Young has resided continuously on the property since he bought it in 1988. E1137-1138. He has also continuously maintained the property and paid property taxes on all three parcels. Id. When he acquired the Young Property, Parcel 3 was barely passable. E1137. He maintained Parcel 3 for a period of time by mowing it but then let it go back to nature.

E1138. He posted all three parcels with "no trespassing" signs. E1138. The only people he saw on parcel 3 itself were occasional trespassers. E1138.

3. Mr. Holder testified that prior to Mr. Young's ownership, the Young Property was vacant for a period of time and that kids would play there. Appx. at 118-123. However, Mr. Holder's wife, Deena Holder, who lived in the area as a child, testified that they were instructed "not to go back there." Appx. at 123. Mr. Young bought the property, he explicitly asked Mr. Holder to stop using his driveway. Appx. at 123. In response, Mr. Holder spun the tires on his motorcycle, which threw rocks at Mr. Young's vehicle. Id. Mr. Young also removed other trespassers from his property from time to time. E1138.

4. Stonecrest is a subdivision that fronts Dogstreet Road (the "Stonecrest Development"). Appx. at 223-227; E1134. The subdivision was approved by the town in 2005. Appx at 223-227. It adjoins the Young Property. E1135-1137

5. Parcel 3 of the Young Property adjoins lots 10-14 of Stonecrest Development. Appx at 223-227. When Stonecrest Court was subdivided, the developer expressly acknowledged that Mr. Young owned Parcel 3 and adopted the metes and bounds established by Mr. Young's deed and plat as its own. Id.; E1188.

6. Adjoining Plaintiff's Parcel 1 and Parcel 2, as well as the Stonecrest Development, to the north is a narrow strip of land that runs east to west. E1134. This property was used as a railroad for many years (the "Railroad Property"). Id.

7. Further to the north of DNR's property is land owned by Deena Holder and Appellant UEBP. Deena Holder owns 25 and 28 Antietam Road, Keedysville, Maryland (the "Deena Properties"). E1134. UEBP's property was subdivided from Deena's

Properties ("UEBP Property") and is also on the other side of the tracks. Id. Presently, Deena Holder and UEBP can access their properties via Antietam Road. E1187, 1213. Antietam Road cuts through the corner of the Stonecrest Development, crosses the Railroad Property and ends at the UEBP and Deena Holder Properties. Appx. at 223-227.

B. Justin Holder's Claims

8. Defendant Justin Holder claimed that he was the true owner of Plaintiff's Parcel 3. According to him, Parcel 3 was actually in the chain of title for the Stonecrest Development prior to that property being subdivided; however since the Stonecrest Development Plat did not list Parcel 3 as a lot, it was never sold by the developer, who allegedly retained possession of that parcel until Mr. Holder purchased it from the developer in 2020. E1138-1140.

9. Starting in the Summer of 2020, Justin Holder started claiming an interest in Parcel 3 and tried to open a right of way across the property. E1195. As a result, Plaintiff filed the Complaint sub judice.

C. Deena Holder and Uncle Eddie's Claims

10. UEBP's claim to a wagon road goes back to an 1872 deed. E1188-1189. However, by the time UEBP acquired its property the use of the wagon road had long since been abandoned:

> So, from our end of it right as you come into right before you cross the railroad area, we noticed that there was a space of land that kind of went up in between the railroad bed and Stonecrest. There was a path that was pretty wide that went up that way and it looked like something had been there before, there had been a road there before or some sort of path or and so.

Appx. at 227-228 (emphasis added).

11. As explained above, the trial court found, and this Court affirmed in the last appeal that the wagon road was fatally defective; and even if it was not, it had been abandoned and/or barred by adverse possession. Thus Appellants were properly enjoined from crossing Parcels 2 and 3 in order to use the alleged wagon road. See supra Statement of the Case.

STANDARD OF REVIEW

"Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court. . . ." Md. Rule 8-131(a). "When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). "Under the clearly erroneous standard, [the appellate court does] not disturb the factual findings of the trial court if they are supported by competent and material evidence. Agency Ins. Co. v. State Farm Mut. Auto. Ins. Co., 193 Md. App. 666, 671–72, 998 A.2d 936, 940 (2010). Legal questions, however, are reviewed de novo. Agency Ins. Co. v. State Farm Mut. Auto. Ins. Co., 193 Md. App. 666, 672, 998 A.2d 936, 940 (2010). When the appellate court reviews a trial judge's ruling, which "involves a weighing", the appellate court applies the more deferential abuse of discretion standard. Crane v. Dunn, 382 Md. 83, 92, 854 A.2d 1180, 1186 (2004).

LEGAL DISCUSSION

Appellee incorporates the legal discussion from his response to the Brief filed by UEBP ("UEBP Br.") as if stated herein.

CONCLUSION

WHEREFORE, this Court should affirm the decision of the trial court and award such further relief as justice requires, including an award of attorneys' fees.

REQUEST FOR A HEARING

Appellee requests a hearing on this matter.

Respectfully submitted,

/s/ Victor E. Cretella
Victor E. Cretella III, Esq.
No. 9612170207
The Badaki Law Firm, LLC
111 W. Washington Street
Hagerstown, MD 21740
240-329-4616 (phone)
877-436-9079 (fax)
counsel3@badakilawfirm.com
Attorney for Jeffrey and Cheryl Young

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains 3,184 words, excluding the parts of the brief exempted from the word count by Rule 8-503

2. This brief complies with the requirements stated in Rule 8-112. It is printed in Times New Roman 13.

/s/ Victor E. Cretella

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document on November 22 by MDEC to Justin Holder, 308 West Chapline Street Sharpsburg, MD 21782, and Robert Kline, 73 N. Main St., Port Deposit, MD 21904 and served two copies on those attorneys as well.

/s/ Victor E. Cretella

E-FILED; Washington Circuit Cou
Docket: 12/11/2023 8:01 AM; Submission: 12/11/2023 8:01 AI
Envelope: 1476501

TOWN OF KEEDYSVILLE, MARYLAND

"Where Northern Thrift and Personality Blend with Southern Charm and Hospitality"

P.O. Box 359
19 South Main Street
Keedysville, MD 21756
301-432-5795
townhall@keedysvillemd.com
www.keedysvillemd.com

Ken Lord, Mayor
Brandon Sweeney, Assistant Mayor
Judy Kerns, Council
Matthew Hull, Council
Sarah Baker, Council

Approved

Mayor and Council
Minutes
November 1, 2023

The monthly meeting of the Keedysville Mayor and Town Council was called to order at 7:00 pm with the following present: Mayor Ken Lord, Assistant Mayor Brandon Sweeney, Council Members Judy Kerns, Matt Hull, Sarah Baker, Town Attorney Ed Kuczynski, Town Administrator Lisa Riner, Administrative Assistant Teresa Pangle.

Minutes from the September 6, 2023 Public Hearing and October 4, 2023 meeting were approved.

The General Fund Report was $459,483.22

Announcements were read

Audit Report - Ms. Clarke with Smith, Elliott, Kearns & Company (SEK) reported it was a smooth process, and all is good.

Community Deputy Report
Deputy Watkins completed his normal checks, 7 in the park, 6 in the cemetery, 8 in Stonecrest, 8 in Rockingham, 8 in Cannon Ridge, 7 calls for service, half an hour of foot patrol, 1 Court day, 2 days of training, and 1 special event (trick or treat).

Resident Comments
Ms. Gemeny reported a street light on S. Main Street is blinking/strobing.

Mr. Thompson presented information about the four mature trees he had lost. He feels this is due to the builders not following rules/regulations and the Town's failure to protect the easement between his property and the Stonecrest subdivision. See attached documents.

Ms. Riner reported an email was received from Mr. Holder on October 25, 2023, that will be made part of the minutes.

Old Business
Dogstreet Rd & Main St Crosswalk – Ms. Riner reported the painting is done and the crosswalk is there. We are waiting on a new stop sign. Ms. Riner spoke to Ms. Walton and she will remove the bark from the tree stump and the vine so as not to obstruct the stop sign.

EXHIBIT G

Clearing Area at Stormwater Pond near 31 Farragut – Ms. Riner reported Mr. Heimer from the County sprayed the Tree of Heaven. Mr. Babington will take care of the removal in mid-winter.

Trash Service Bids – We received two bids for trash collection, Apple Valley Waste, and J & J Trash Service. J&J had the lowest bid. There was some conversation about the transition. Ms. Riner will coordinate to have J & J drop off their bins before Apple Valley Waste removes bins. The new pickup day with J & J will be Wednesdays for trash, yard waste, and recycling. Ms. Kerns motioned to accept the J & J Trash Service bid, Ms. Baker seconded and all voted in favor. Service will start at the beginning of February 2024.

eCode 360 – We are waiting to get a second quote from Municode.

Town Hall Windows & Plumbing Repairs – Plumbing repairs have been completed. Ms. Riner reported there are two quotes for the window repairs. Mr. Sweeney motioned to approve the quote from Smith Renovations, Mr. Hull seconded and all voted in favor.

Speeding/Passing on 34 – Ms. Riner said the County talked to the State about the issues on Rt 34. Someone from the State called and said this is an issue throughout the County. They are using Rt 67 as a guinea pig to go away from their normal rules to try to fix these problems by not allowing passing at intersections. The lines on Rt 67 have already been painted. It will be 1-2 years for them to study the no-passing zone changes made on Rt 67. They will revisit the Rt 34 issues after the study.

New Business

Community Parks & Playground Grant Contingency Amount – Ms. Riner reported we dropped the contingency amount from the grant application. We did apply for the full amount that was quoted.

No Trucks on Dogstreet Sign – Ms. Riner said the County is looking into this. They are going to put up a counter to see how many trucks come through. There may be some kind of approval needed from the State, but they are looking into it.

Council Comments

Ms. Riner reported cleaning of the WWII monument was completed by a State organization that provides this service for free.

Ms. Riner mentioned the holiday dinner for the Town Council as well as a dinner for Mr. Abraham. Details are still being worked out. Ms. Kerns mentioned a new restaurant in Boonsboro, Branded Chophouse as an option for the Town Council dinner. Ms. Riner said the Planning and Zoning dinner will be on December 1st at the Bavarian Inn.

Meeting adjourned at 7:44 pm.

Respectfully Submitted,
Teresa Pangle
Administrative Assistant

Gmail

Teresa Pangle <tpangle@keedysvillemd.com>

Re: MDNR asked STB for a DJ and the railroad has been abandoned for almost 50 years

2 messages

Lisa Riner <lriner@keedysvillemd.com> Mon, Oct 30, 2023 at 9:57 AM
To: Justin Holder <jholder2004@gmail.com>
Cc: Town Hall <townhall@keedysvillemd.com>, Ed Kuczynski <ed.kuczlaw@gmail.com>, Sarah Baker <sbaker@keedysvillemd.com>, Brandon Sweeney <bsweeney@keedysvillemd.com>, Judy Kerns <jkerns@keedysvillemd.com>, Ken Lord <mayorkenlord@gmail.com>, hullscraneservice@hotmail.com, "Talley H. Kovacs - DNR-" <talley.kovacs@maryland.gov>, Teresa Pangle <tpangle@keedysvillemd.com>

Good Morning Justin,

We will attach these documents to our October meeting minutes.

Thanks!

Lisa Riner
Town Administrator, Notary
Town of Keedysville

19 S Main St, PO Box 359, Keedysville, MD 21756
301-432-5795 (office), 240-313-8603 (cell)
lriner@keedysvillemd.com, www.keedysvillemd.com
Town Hall Hours: Monday - Friday 8:00am - 2:00pm

On Wed, Oct 25, 2023 at 7:00 PM Justin Holder <jholder2004@gmail.com> wrote:

Dear Town of Keedysville,

Please see attached petition to STB and the decision. Ms. Kovacs from DNR filed the petition. (I copied Ms. Kovacs because I think her candor in the petition, and to our courts has been disgraceful.)

In either case, Ms. Kovacs made the request and STB confirmed what has been obvious for the last 30 years, the State of Maryland is a fraud, bootstrapping up a colorable claim.

Please publish these documents in the Mayor and Council minutes to inform the citizens of Keedysville, and Washington County of the truth.

Have a great weekend.

Respectfully,

Justin Holder

Lisa Riner <lriner@keedysvillemd.com>
To: Teresa Pangle <tpangle@keedysvillemd.com>

Mon, Oct 30, 2023 at 10:05 AM

Lisa Riner
Town Administrator, Notary
Town of Keedysville

19 S Main St, PO Box 359, Keedysville, MD 21756
301-432-5795 (office), 240-313-8603 (cell)
lriner@keedysvillemd.com, www.keedysvillemd.com
Town Hall Hours: Monday - Friday 8:00am - 2:00pm

[Quoted text hidden]

2 attachments

Decision 1.11.2023 51488.pdf
63K

Petition for Declaratory Order with Exhibits.pdf
2254K

51488
EB

SERVICE DATE – JANUARY 12, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36606

MARYLAND DEPARTMENT OF NATURAL RESOURCES—
PETITION FOR DECLARATORY ORDER

Digest:[1] The Maryland Department of Natural Resources filed a petition for declaratory order requesting that the Board determine whether a previous owner of a rail line consummated the abandonment authority granted by the Board's predecessor agency. This decision finds that the abandonment was timely consummated and the Board therefore lacks jurisdiction over the line.

Decided: January 11, 2023

By petition filed on April 22, 2022, the Maryland Department of Natural Resources (MDNR) seeks a declaratory order determining whether a portion of the Hagerstown Branch between Valuation Station 0+00 at Weverton, Md., and Valuation Station 980+00 at Roxbury, Md. (the Line), formerly owned by the Washington County Railroad Company (WCRC) and operated by the Baltimore and Ohio Railroad Company (B&O Railroad), has been abandoned or whether it remains part of the interstate rail network and the Board retains jurisdiction over it. (Pet. 3.) MDNR states that it acquired the line from WCRC's successor in interest in the Line, CSX Transportation, Inc. (CSXT), in September 1991 and "is exploring options for a rail-to-trail project." (Id. at 1.)

Along with its petition, MDNR submits a June 1978 certificate and decision by the Board's predecessor, the Interstate Commerce Commission (ICC), permitting abandonment of the Line (as well as another line segment not at issue here).[2] See Wash. Cnty. R.R. Aban.

[1] The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

[2] An Administrative Law Judge initially authorized abandonment of the Line in November 1977. See Wash. Cnty. R.R. Aban. Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Security, All in Wash. Cnty., Md., AB 19 (Sub-No. 20) et al. (ICC served Nov. 8, 1977). Subsequently, the ICC received a petition for administrative review, which it denied in a 1978 decision affirming the 1977 decision. See Wash. Cnty. R.R.—Aban. Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Sec., All in Wash. Cnty., Md. (April 1978 Decision), AB 19 (Sub-No. 20) et al. (ICC served Apr. 27, 1978).

Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Security, All in Wash. Cnty., Md. (June 1978 Ord.), AB 19 (Sub-No. 20) (ICC served June 22, 1978). The June 1978 Order, AB 19 (Sub-No. 20), slip op. at 2, provided that, to exercise the abandonment authority, applicants would need to advise the ICC in writing of the date the abandonment took place and submit two copies of the journal entries showing that the Line had been retired from service.[3] The order also provided that, if not exercised within one year, the abandonment authority would expire. June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 2.

Additionally, MDNR submits two letters describing actions taken by either WCRC or B&O Railroad following the June 1978 Order.[4] The first is addressed to the ICC acting secretary and signed by an attorney for the Chessie System Railroad (Chessie), which owned B&O Railroad.[5] (Pet., Ex. D.) The letter, dated December 6, 1978, and stamped as received by the ICC on December 10, 1978, states that the abandonment authority authorized in Docket No. AB 19 (Sub-No. 20) "was exercised at 12:01 AM, November 15, 1978" and asserts that journal entries would be forwarded to the ICC. (Id.)

The second letter, dated April 10, 1979, is signed by Aubrey H. Herndon, Jr., Chief, Interpretations Branch, and is addressed to Chessie's assistant vice president and comptroller, thanking him for his "letter of April 4, 1979, submitting the accounting for the authorized abandonments of the Hagerstown and Antietam branches that had been inadvertently omitted from [his] original submission to us of February 2, 1979." (Pet., Ex. E.) The letter states that "[t]he accounting is acceptable and our file on this matter will be closed." (Id.)

DISCUSSION AND CONCLUSIONS

Under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. The Board has broad discretion in determining whether to issue a declaratory order. See Bos. & Me. Corp. v. Town of Ayer, 330 F.3d 12, 14 n.2 (1st Cir. 2003); Delegation of Auth.—Declaratory Ord. Proc., 5 I.C.C.2d 675, 675 (1989). For the reasons discussed below, the Board will issue a declaratory order finding that the abandonment authority granted by the ICC in the June 1978 Order was consummated and that the Board does not have jurisdiction over the Line.

---

[3] In this context, "retirement" refers to consummation of abandonment authority. See Black Hills Transp.—Modified Rail Certificate, FD 34924, slip op. at 5 (STB served Jan. 27, 2010). The submission of journal entries indicating the intent to retire a line was "the approach followed at that time to inform the agency when an abandonment had been consummated." Id.

[4] MDNR states that these letters are the "only documentation known to MDNR" relating to actions taken by WCRC or B&O Railroad with respect to the abandonment. (Pet. 3.)

[5] B&O Railroad was part of Chessie, a unit of CSX Corporation, before merging into the Chesapeake & Ohio Railway Company, which merged into CSXT. See CSX Transp., Inc.—Aban.—Between Big Pool & Tonoloway in Wash. Cnty., Md., AB 55 (Sub-No. 240X), slip op. at 1 n.1 (ICC served July 13, 1988).

For lines authorized for abandonment before 1997,[6] the Board determines whether abandonment authority was consummated on a case-by-case basis by evaluating all the facts and circumstances to determine the line owner's intent. See Beaufort R.R.—Modified Rail Certificate, FD 34943, slip op. at 6 (STB served Mar. 19, 2008). In determining whether there was an intent to consummate abandonment, the Board looks to the rail carrier's actions, including both stated intentions and various physical acts. See Md. Transit Admin.—Aban. Exemption—in Somerset Cnty., Md., AB 590 (Sub-No. 1X), slip op. at 3 (STB served May 13, 2015).

As noted above, in Docket No. AB 19 (Sub-No. 20), the ICC authorized WCRC to abandon and B&O Railroad to cease operations over the Line. See June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 1. The ICC order required that, to exercise the authority, the applicants advise the ICC in writing of the date the abandonment took place and submit copies of the relevant journal entries, and it provided that the authority would expire if not exercised within one year. Id. at 2.

The record here contains a letter from Chessie stating that the abandonment authority was exercised on November 15, 1978. (Pet., Ex. D.) That letter was received by the ICC on December 10, 1978, (id.), and establishes both that the abandonment authority was exercised within the one-year period and that the ICC was advised in writing of the abandonment. See June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 2.

Although the December 1978 letter also states that journal entries would be forwarded to the ICC, (Pet., Ex. D), the ICC file for Docket No. AB 19 (Sub-No. 20) in the Board's possession does not contain journal entries. However, the April 10, 1979 letter, which appears to be from the ICC to Chessie, sufficiently demonstrates that the ICC did receive relevant journal entries at some point prior to that date. That letter seemingly responds to a letter from Chessie, which is described as "submitting the accounting" for the "abandonments of the Hagerstown and Antietam branches" authorized in Docket No. AB 19 (Sub-No. 20). (Pet., Ex. E.) As the Board has recognized, it was standard ICC practice to describe correspondence containing journal entries as "submitting accounting," which indicates that the ICC sent the April 1979 letter to Chessie after having received journal entries. See Chester Cnty., Pa.—Pet. for Declaratory Ord., FD 36400, slip op. at 3 (STB served July 13, 2021) (stating that an ICC letter described correspondence it received "as 'submitting accounting' for rail line retirements," which showed that the ICC received "a journal entry showing the accounting information"). Additionally, the April 1979 letter states that "[t]he accounting is acceptable and our file on this matter will be closed," demonstrating that the ICC considered the journal entries sufficient and conclusive on the matter, and that no additional action was necessary to close the file. (Pet., Ex. E (noting that a copy of the letter would be inserted into the file for Docket No. AB 19 (Sub-No. 20)).)

---

[6] In 1997, the Board established a rule requiring that railroads authorized to abandon a line file a "notice of consummation" within one year of the service date of a decision authorizing the abandonment "to signify that it has exercised the authority granted and fully abandoned the line." 49 C.F.R. § 1152.29(e)(2). Such notice is "deemed conclusive on the point of consummation." Id.; see Honey Creek R.R.—Pet. for Declaratory Ord., FD 34869 et al., slip op. at 4-5 (STB served June 4, 2008).

There is no evidence of record that calls into question this interpretation of the letters submitted by MDNR. Accordingly, the Board finds that the record sufficiently demonstrates that abandonment authority was exercised within one year of the June 1978 Order. See Black Hills Transp., FD 34924, slip op. at 5 (finding that journal entries were conclusive evidence that a carrier had exercised abandonment authority where agency records contained an ICC letter referencing the date of the carrier's letter filing such journal entries). Therefore, the Board finds that abandonment of the Line, as authorized in Docket No. AB 19 (Sub-No. 20), was timely consummated and that the Board has no jurisdiction over the Line, as it is no longer part of the interstate rail network.

It is ordered:

1. The Board finds that abandonment of a portion of the Hagerstown Branch between Valuation Station 0+00 at Weverton, Md., and Valuation Station 980+00 at Roxbury, Md., as authorized in Docket No. AB 19 (Sub-No. 20), was timely consummated and that the Board has no jurisdiction over the Line.

2. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WASHINGTON COUNTY RAILROAD COMPANY AND THE BALTIMORE AND OHIO RAILROAD COMPANY – ABANDONMENT OF PORTION OF THE HAGERSTOWN BRANCH IN WASHINGTON COUNTY, MARYLAND

NO. FD36606

PETITION OF MARYLAND DEPARTMENT OF NATURAL RESOURCES FOR DECLARATORY ORDER

I. INTRODUCTION

The Maryland Department of Natural Resources ("MDNR") seeks a determination from the Surface Transportation Board as to whether the Washington County Railroad Company (the "WCRC"), as owner, and the Baltimore and Ohio Railroad Company ("B&O Railroad"), as operator, exercised authority under the Interstate Commerce Commission Certificate and Decision (the "ICC Certificate"), dated June 22, 1978, Docket No. AB-19 (Sub-No. 20), to abandon the portion of the Hagerstown Branch between Valuation Station 0+00 at Weverton, Maryland, and Valuation Station 980+00 at Roxbury, Maryland (the "Railway Line"). By Quitclaim Deed dated September 6, 1991 and record in the Land Records of Washington County, MD at Liber 01015, folio 796, MDNR acquired the Railway Line from CSX Transportation, Inc., which was the WCRC's successor in interest in the Railway Line. MDNR is exploring options for a rail-to-trial project along the Railway Line and therefore is in need of a determination as to whether the Railway Line has been abandoned under federal law.

II. BACKGROUND

By application filed on March 18, 1975 to the Interstate Commerce Commission (the "ICC"), the WCRC and B&O Railroad sought authority to abandon a portion of the Hagerstown

Branch between Valuation Station 0+00 at Weverton, Maryland, to Valuation Station 1218+60 at Hagerstown, Maryland, a total distance of approximately 25.54 miles. *See* Exhibit A, Initial Decision, No. AB-19 (Sub-No. 20), dated October 26, 1977, at 1. On July 21, 1976, WCRC and B&O Railroad amended their application by removing from the proposed abandonment a 4.52-mile portion of the line from Valuation Station 980+00 at Roxbury, Maryland, to Valuation Station 1218+60 at Hagerstown, Maryland, leaving the Railway Line as the portion sought to be abandoned. *Id.*

In an Initial Decision, dated October 26, 1977, the ICC found that "present and future convenience and necessity permit abandonment" of the Railway Line and directed issuance of a certificate of abandonment. Exhibit A at 6, 8. That decision was upheld on review by Decision dated April 21, 1978. *See* Exhibit B, Decision, No. AB-19 (Sub-No. 20), April 21, 1978. Three months later, on June 22, 1978, the Acting Secretary of the ICC issued a Certificate and Decision, which provided that for the WCRC and B&O Railroad to exercise their authority granted under the certificate to abandon the Railway Line they "shall submit two copies of the journal entries showing the retirement of the [Railway Line] from service, and shall advise [the ICC] in writing, immediately after the abandonment of the line of railroad, of the date on which the abandonment actually took place." *See* Exhibit C, ICC Certificate, at 2. The ICC Certificate further provided that the "authority granted" under the certificate to abandon the Railway Line "shall be of no further force or effect" if "not exercised within one year from" the date of the ICC Certificate. *Id.*

On March 15, 2022, counsel for MDNR sent an inquiry to counsel for the STB for information as to whether after issuance of the ICC Certificate the WCSC or B&O Railroad had completed the abandonment process for the Railway Line. In response, STB's counsel stated that while the ICC had authorized the abandonment, the STB's files did not contain documents